

REMARKS

Reconsideration of the pending application is respectfully requested on the basis of the following particulars:

In the claims

The claims have been amended responsive to their rejection as being indefinite. It is respectfully submitted that the claims have not been amended in substance, and that amendments related to the indefiniteness issues are not intended to alter the substance or scope of the claims. Accordingly, it is respectfully submitted that the amended claims raise no new issues requiring further search or examination.

Objection to the specification

The abstract of the disclosure is objected to as containing objectionable legal phraseology. The abstract has been amended to eliminate legal phraseology such as "means." In view of the amendment, withdrawal of the objection is requested.

Rejection of claims 3, 4, and 9 under 35 U.S.C. § 112, second paragraph

Claims 3, 4, and 9 presently stand rejected as being indefinite. In particular, the examiner notes that in claim 3 redundant elements make it unclear as to whether tubular bodies are claimed, and in claim 9 the recitation of "the common part" lacks sufficient antecedent basis and it is unclear whether the diameter of the first end is an internal diameter and smaller than the internal diameter of the common part.

Claim 3 has been amended to eliminate the redundant recitation. Claim 9 has been amended to recite "a common part" to provide proper antecedent basis for the common part, and to clarify that the internal diameter of the first end of the guide element is smaller than that of the common part.

In view of these amendments, withdrawal of the rejection is respectfully requested.

Rejection of claims 1 and 3 under 35 U.S.C. § 102(b)

Claims 1 and 3 presently stand rejected as being anticipated by Manciocchi, Jr. (U.S. 4,509,541). This rejection is respectfully traversed for the following reasons.

It is respectfully submitted that Manciocchi fails to disclose or suggest each and every element set forth in claims 1 and 12 of the present application, at least because Manciocchi fails to disclose or suggest return means interposed between the second end of the tubular body and the second end of the tubular guide element, wherein in the absence of force, the cleaning means are entirely disposed within said guide element.

Manciocchi fails to disclose or suggest return means interposed between the second end of the tubular body and the second end of the tubular guide element.

Manciocchi has no return means. The examiner identifies threads 34, 36 as return means. As stated by Manciocchi, "threads 34 on the exterior walls of cylinder 12 engage threads 36 on the interior walls of the cylindrical case 10. As threads 34 and 36 engage, cylinder 12 is moved in and out of cylindrical case 10, making either toothpick 18 or wick 14 available for use." (*Manciocchi*; col. 3, lines 20-25). While the threads 34 and 36 allow the toothpick 18 or the wick 14 to be selectively exposed, they do not constitute a return means wherein in the absence of force the cleaning means are entirely disposed within the guide element. Instead, in the absence of force, the position of the toothpick 18 and wick 14 remain unchanged. Thus, Manciocchi has no return means which, in the absence of force, causes a cleaning means to return to a position entirely disposed within said guide element.

In order to change the position of the toothpick 18 and wick 14, a user must rotate the case 10 with respect to the cylinder 12. Once the toothpick 18 and wick 14 are positioned, they remain so positioned until the user intervenes by again rotating the case 10 with respect to the cylinder 12. In contrast, according to the present invention when no further force is applied to extend the cleaning means, the cleaning means is returned to its position disposed within the guide element automatically by operation of the return means.

Even assuming, *arguendo*, that the threads 34 and 36 constitute a return means, they do not constitute a return means interposed between the second end of the tubular

body and the second end of the tubular guide element. Threads 34 are formed on the exterior wall of the cylinder 12. Therefore, the threads 34 cannot be located between the second end (base 42) of the cylinder 12 and the second end (base 26) of the case 10. Clearly, the threads 34 of the cylinder 12 simply cannot extend past the end of the cylinder.

Further, in order for the threads 34 and 36 to cooperatively form any mechanism for movement of the cylinder 12, the threads 34 and 36 must be at least partially engaged. Therefore, at least a portion of the threads 36, the portion engaged with the threads 34 of the cylinder, are located ahead of the base 42, and thus are not between the second end (base 42) of the cylinder 12 and the second end (base 26) of the case 10. Therefore, the threads 34 and 36 cannot be construed as a return means (or any structure at all) that is *interposed between* the second end (base 42) of the cylinder 12 and the second end (base 26) of the case 10.

Even if an unengaged portion of the threads 36 is considered to be interposed between the second end (base 42) of the cylinder 12 and the second end (base 26) of the case 10, this cannot constitute a return means (or any other means for moving the cylinder 12 within the case 10) since the unengaged portion of the threads 36 by itself cannot, without cooperation with threads 34 of the cylinder 12 which are not interposed between the second end (base 42) of the cylinder 12 and the second end (base 26) of the case 10, function in any such manner.

Further, Manciocchi fails to disclose or suggest that the first end of the tubular guide element is profiled to allow its positioning at the entry of an interdental space, bearing against the teeth.

For at least these reasons, it is respectfully submitted that Manciocchi does not anticipate claim 1 because Manciocchi fails to disclose or suggest each and every element set forth in claim 1. Therefore, claims 1 and 12, and claims 3, 4, and 7-10 which depend from claim 1, are allowable. Accordingly, the withdrawal of the rejection is respectfully requested.

Rejection of claims 4, 7-10, and 12 under 35 U.S.C. § 103(a)

Claims 4, 7-10, and 12 presently stand rejected as being unpatentable over Manciocchi in view of Yang (U.S. 5,868,149). This rejection is respectfully traversed for the following reasons.

Claims 4, and 7-10, depend from claim 1. As discussed above, Manciocchi fails to disclose or suggest each and every element set forth in claim 1 of the present application. It is respectfully submitted that Yang fails to supplement the deficiencies discussed above with respect to claim 1, and therefore Manciocchi in combination with Yang fails to form a prima facie case of obviousness of claim 1.

Further, there is no motivation or suggestion to combine Manciocchi with Yang to arrive at the present invention. With regard to claims 4 and 7-10, which depend from claim 1, and claim 12, which is an independent claim, a return means interposed between the second end of the tubular body and the second end of the tubular guide element is recited.

However, as discussed above, the arrangement of Manciocchi allows Manciocchi's toothpick 18 and wick 14 to be placed in a fixed position relative to one another. Without further manipulation of Manciocchi's antiseptic toothpick, by rotating the case 10 with respect to the cylinder 12 to reposition the toothpick 18 and wick 14, the relative position of the toothpick 18 and wick 14 remains unchanged.

Yang discloses a device wherein a toothpick member is elastically extended from and retracted into an outer tube. It is respectfully submitted that the elastically extendable and retractable function of Yang is simply not compatible with the fixed nature of Manciocchi.

It must be noted that, not only does Manciocchi not teach or suggest any desirability of either the toothpick 18 or the wick 14 being automatically retracted, Manciocchi discloses that the adjustment of the antiseptic toothpick allows either of the toothpick 18 or the wick 14 to be extended for use. Either the toothpick 18 or the wick 14

remains extended for the duration of its use, to be retracted (or exchanged with the other of the toothpick 18 or the wick 14) only at the discretion and selection of a user.

It is respectfully submitted that, for at least these reasons, Manciocchi and Yang fail to form a prima facie case of obviousness of any of claims 4, 7-10, and 12. Therefore, it is respectfully submitted that claims 4, 7-10, and 12 are allowable over the cited references. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

Every effort has been made to place the application fully in condition for allowance, and to remove all issues raised by the Examiner in the Official Action.


In view of the amendments to the claims, and in further view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is requested that claims 1, 3, 4, 7-10, and 12 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicant's attorney, the Examiner is invited to contact the undersigned at the numbers shown.

Respectfully submitted,

BACON & THOMAS, PLLC
625 Slaters Lane, Fourth Floor
Alexandria, Virginia 22314-1176
Phone: (703) 683-0500

Date: August 2, 2005


JOHN R. SCHAEFER
Attorney for Applicant
Registration No. 47,921